



## **STANDING POSITIONS**

(Updated October 2018)

Below are the Virginia REALTORS® general standing positions on a variety of issues that affect your real estate practice.

### **LAND USE & OWNERSHIP RIGHTS**

#### **EXISTING PROPERTIES—RENTAL INSPECTION AUTHORITY, BUILDING CODE ENFORCEMENT, RETROFITTING**

The Uniform Statewide Building Code (USBC), in the “Property Maintenance” provisions applicable to existing commercial and residential properties, allows a local building official to address property maintenance issues that affect public health, welfare and safety. Virginia REALTORS® opposes any expansion of the current enabling authorities for local governments to inspect rental properties, without the permission of the property owner.

Virginia REALTORS® opposes efforts on the part of local governments to use the USBC, or other programs such as Universal Design, LEED/Green Building, or Accessibility/“Visitability” to require property owners to retrofit properties in prior compliance with law and regulation.

#### **GROWTH ISSUES**

Increased population growth and demographic shifts from urban centers have prompted major discussions about poor development patterns and whether local governments have the necessary authority to effectively regulate land use and fund their public infrastructure needs.

Virginia REALTORS® opposes the expansion of local government authority by the General Assembly in land use powers. Virginia REALTORS® has consistently supported additional broad-based revenue sources for public infrastructure funding.

To that end, Virginia REALTORS® supports:

Efforts to encourage regional cooperation; and Dedicated, broad-based funding methods. Virginia REALTORS® strongly opposes additional “growth control” measures that only exacerbate current problems with sprawl and the lack of affordable housing in many regions of the Commonwealth. Examples include:

Adequate Public Facilities (APF) ordinances, which would require that supporting infrastructure be in place prior to, or concurrent with, governmental approval of a particular project; Cash proffers and impact fees Mandatory Transfer of Development Rights (TDR); and Exclusionary zoning practices such as drastic increases in minimum lots sizes or other decisions that discourage high-density development.

### **HOUSING OPPORTUNITY**

Virginia REALTORS® believes that there should be an adequate supply of “workforce” housing in localities throughout Virginia. A broad range of housing stock is important for good economic development and a good quality of life for all Virginians.

### **PRIVATE PROPERTY RIGHTS**

Virginia REALTORS® strongly supports a legal framework that ensures the protection of private property rights guaranteed by the United States Constitution and the Constitution of Virginia.

### **PROPERTY OWNERS ASSOCIATION ACT**

The Property Owner’s Association Act (POA) and to a lesser extent, the Condominium Association Act, require ongoing legislative and regulatory adjustments to address issues impacting real estate transactions. Virginia REALTORS® will continue to take a leadership role as they develop. Virginia REALTORS® opposes any practice of POAs or Condo Associations that unfairly impairs sellers or their agents in the free marketability of their property interests or creates unnecessary costs and delay.

### **VIRGINIA RESIDENTIAL LANDLORD TENANT ACT**

Virginia REALTORS® supports the Virginia Residential Landlord Tenant Act (VRLTA).

### **FAIR HOUSING - SEXUAL ORIENTATION and GENDER IDENTITY**

Virginia REALTORS® supports including sexual orientation and gender identity as protected classes under the Virginia Fair Housing law.

### **GOVERNMENT**

#### **DILLON RULE**

The Dillon Rule is one of the foundations of the good business climate in the Commonwealth. Virginia REALTORS® opposes any substantive departure from the Dillon Rule.

#### **ECONOMIC DEVELOPMENT**

Job creation through economic development is critical to the financial stability of Virginia’s economy. Virginia REALTORS® supports strong economic development programs to include components for workforce training and workforce housing.

#### **ENTERPRISE ZONES**

Virginia REALTORS® supports the Enterprise Zone Program.

## **HISTORIC PRESERVATION ORDINANCES**

Virginia REALTORS® supports historic preservation as an essential part of redevelopment and revitalization of older communities. Virginia REALTORS® opposes adoption of any local historic ordinance that creates unreasonable burdens and costs for property owners.

## **LOCAL REGULATIONS WHICH EXCEED STATE MANDATES**

Virginia REALTORS® opposes any legislation that would grant local governments authority to impose stricter regulations or standards than those established by state law.

## **REDEVELOPMENT and REVITALIZATION**

Virginia REALTORS® believes that the redevelopment and revitalization of older residential and commercial development is critical to the overall vitality of the Commonwealth. State and local government officials should encourage redevelopment and revitalization by the use of targeted financial incentives and by elimination of obstacles to achieving this end.

## **REGIONAL COOPERATION**

Virginia REALTORS® encourages local governments to work together in regional efforts to save costs and eliminate duplication of services. The General Assembly should continue to develop and implement incentives for local governments to work together in regional cooperative efforts to provide services to citizens at a lower cost, and to enhance the region's opportunities for future economic development.

## **SPECIAL EXCEPTION PERMITS/ ZONING REQUIREMENTS**

Virginia REALTORS® opposes the limitation of a Special Exception permit to the current landowner and opposes any provision in such permit that would require its expiration. Virginia REALTORS® believes that Special Exceptions serve a dual purpose: not only to permit compatible uses by owners that do not impair surrounding properties but also to provide protection to those who rely on zoning to protect their enjoyment of their properties.

## **BROADBAND**

Virginia REALTORS® supports the expansion of affordable, accessible and reliable broadband and cellular service throughout the Commonwealth of Virginia, particularly in unserved and underserved areas. Broadband access facilitates growth in property values, business opportunities, and job creation. While there is no single strategy or policy to accomplish this, Virginia REALTORS® supports continued collaboration between Federal, state, and local governments, and the private sector to achieve the goal of broadband expansion.

## **PROFESSIONALISM & LICENSURE**

### **LICENSURE OF TRADES, OCCUPATIONS AND PROFESSIONS**

Virginia REALTORS® will support the licensure or more stringent regulation of trades, occupations or professions when the same is shown to be necessary to protect the public health, safety or welfare; and provided such regulation is affordable and not unduly burdensome on trade and commerce.

## **SALES OF REAL ESTATE**

Virginia REALTORS® opposes exemptions from real estate licensure for persons who sell real estate on behalf of others for compensation, regardless of title, credentialing or circumstance.

## **REAL ESTATE SETTLEMENT PRACTICES**

Virginia REALTORS® opposes any proposal that would substantially amend CRESPA, including any proposal to require real estate licensees to advise parties to a real estate transaction that they need to engage legal counsel.

## **TAXATION & TRANSPORTATION**

### **ROLL BACK TAXES/LAND USE PROGRAM**

Virginia REALTORS® generally supports current law for counties utilizing the “land use” assessment program. We oppose any efforts by local governments to impose roll back taxes upon a change in the local comprehensive plan. Virginia REALTORS® supports a repeal of the current enabling authority of a local government to impose roll back assessments when there has been a zoning change, which discourages responsible zoning by landowners when they do not have a specific user for the property being rezoned. Virginia REALTORS® supports local governments having the authority to impose roll back assessments upon a change to a more intensive use.

## **TAXATION IN VIRGINIA**

### **Fees and General Tax Policy:**

Virginia REALTORS® supports broad-based taxation, as opposed to taxation on only a portion of the population. Virginia REALTORS® believes that absent such a tax system, pressures to increase local Real Estate taxes and other property fees will continue to fall on local governments, to the harm of property owners.

Although REALTORS® do not desire higher taxes, Virginia REALTORS® would consider increases in actual costs in the provision of necessary governmental services or expansion of mandated scope of services to be valid reasons to consider an increase in tax rates, or to broaden bases of tax collection.

Virginia REALTORS® opposes efforts at the state and local level to attach variously-named “add-on fees” to existing assessments, costs and taxes, for purposes unrelated to the collection of the fee. For example, the addition of an “add-on fee” for filing a warrant in debt to benefit emergency service providers, health care providers, educational infrastructure, etc., while for purposes many support, is nevertheless unrelated to its object.

### **Business, Professional and Occupational License (BPOL) Tax:**

Virginia REALTORS® remains concerned over inequities in the application of the BPOL tax, limits on the real estate tax and taxes on services. Virginia REALTORS® will continue to work towards a more equitable method of application of the BPOL tax and, at the appropriate time,

will push for its repeal. However, Virginia REALTORS® opposes efforts to repeal the BPOL tax at the cost of imposing the Retail Sales and Use Tax on services, such as real estate commissions, or on sales of real property.

### **Real Estate Taxes:**

Virginia REALTORS® opposes efforts to limit or “cap” real estate taxes, unless those caps are but one aspect of a substantial reformation of the state’s tax code.

Virginia REALTORS® believes that all classifications of real property should be taxed equally.

Virginia REALTORS® supports legislation to provide voluntary authority to local governments to exempt a percentage of assessed value of residential housing for targeted populations from taxation, provided any such exemption is designed to enhance housing affordability.

### **Recordation and Grantor and Transfer Taxes:**

Virginia REALTORS® recognizes the need for Virginia’s localities to raise revenue to address critical infrastructure needs. Virginia REALTORS® opposes additional statewide increases in recordation, grantor and other transfer taxes for the following reasons:

Increasing recordation and grantor taxes places an additional burden on homebuyers and sellers at the time of settlement and places an unreasonable burden on real property owners;

Recordation, grantors and other transfer taxes are an unstable and unpredictable source of revenue. Because home sales are cyclical, when a downturn in the housing market occurs, revenues from recordation and transfer taxes fall, creating added pressures for a tax increase;

Any transfer tax also is a regressive tax. In general, people tend to spend a smaller share of their income on housing as their income increases; and Recordation, grantors and transfer taxes are more severe than an increase in a broad-based tax designed to generate the same amount of total revenue. The base transfer tax is very narrow relative to a more general tax, such as a local option sales tax; so fewer people pay the tax in a given year. Distributing the burden among a wider group of taxpayers reduces the tax burden per taxpayer.

However, Virginia REALTORS® acknowledges that local solutions to pressing concerns, such as transportation, may sometimes require that these taxes be considered and included as part of such locally implemented plan.

### **HISTORIC TAX CREDITS:**

Virginia REALTORS® supports the creation of and appropriate use of tax credits, including the Historic Rehabilitation Tax Credit Program, as incentives to private investment in real estate, to broaden available housing stock, to preserve historic infrastructure, and to create jobs and increase wages and salaries.

## **TRANSPORTATION PROJECTS**

Virginia REALTORS® recognizes the need to develop a balanced transportation system that can effectively move people and products throughout the Commonwealth while enhancing the economy and preserving a high quality of life. Virginia REALTORS® believes that our transportation system, provided by the state and in conjunction with local governments, should be funded by broad-based and reliable revenue sources.

Virginia REALTORS® believes that tolls will be a component of almost every funding package for transportation projects created in the foreseeable future. Virginia REALTORS® supports such inclusion.

Accordingly, Virginia REALTORS® supports:

A dedicated and reliable long-term funding source for transportation; A constitutional amendment that would dedicate funds to transportation construction and maintenance; The use of bonding authority to underwrite the costs associated with major transportation projects; Creative approaches to transportation construction and maintenance through increased use of the Public-Private Transportation Authority (PPTA); Creative approaches to congestion management efforts through proven practices; Road design improvements, as well as accommodations for car/vanpools; and Alternative modalities of transportation, to include light rail, higher speed and high speed rail, and feeder bus systems

## **ENVIRONMENT**

### **CHESAPEAKE BAY PRESERVATION ACT**

Virginia REALTORS® recognizes the Chesapeake Bay and its tributaries as treasures of Nature, and appreciates all of its many contributions to life and the economy in Virginia. The Bay is “good for business”, and a clean and productive Bay is a major “draw” for Housing, both permanent and seasonal. Virginia REALTORS® will work to maintain the balance between a healthy Chesapeake Bay and a strong, viable economy in Virginia. Virginia REALTORS® will continue to support reasonable and fair regulations that promote a balance between economic growth, the protection of private property rights and the preservation of the environment while opposing any initiatives that exceed evidence-based criteria of cost effectiveness.

### **PRESERVATION OF OPEN SPACE and the ENVIRONMENT**

Virginia REALTORS® supports the preservation of lands as long as such preservation respects private property rights and is not achieved through a local government “taking.” Virginia REALTORS® believes lands designated for open space or other preservation should always be purchased from a willing seller who must be compensated at fair market value of the property. Virginia REALTORS® believes that those who benefit from open space – the general public— should fund its purchase. Virginia REALTORS® opposes the use of real estate fees as a dedicated funding source for open space enjoyed by the general public.

## **STORM WATER MANAGEMENT**

Virginia REALTORS® views storm water control programs as essential to sound environmental stewardship, clean water, and healthy rivers and streams. Virginia REALTORS® believes that residential and commercial property owners must not be unfairly targeted to pay costs associated with storm water management that are not directly related to the properties in question. Further, Virginia REALTORS® opposes property-based assessments made for creation or improvement of infrastructure that does not provide a direct benefit to the property owner.

## **WATER RIGHTS**

Virginia REALTORS® believes that a property owner's use of groundwater on real property is just one "stick" in the "bundle" of their private property rights. Virginia has always followed the common law called the "American Rule," which means that a property owner has unlimited use of the groundwater beneath their real property so long as the use is "reasonable" and the water is not exported off that real property.

Virginia REALTORS® will oppose any proposal to change the law. Virginia REALTORS® also will oppose any proposal to link water supply planning and growth management without any consideration of increasing capacity.